

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

See attached

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: See attached

E-filing

Name of District Court and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION
DEFENDANT - U.S.

▶ ROGER L. HOLLINS

DISTRICT COURT NUMBER

CR 09**0403****PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

U.S. FOOD AND DRUG ADMINISTRATION

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Joseph P. Russoniello, USA
☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

IOANA PETROU**DEFENDANT****IS NOT IN CUSTODY**
 Has not been arrested, pending outcome this proceeding.
 1) ☒ If not detained give date any prior summons was served on above charges ▶
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST ▶

Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ▶

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: May 14, 2009 @ 9:30 am Before Judge: Mag. James Larson

Comments:

PENALTY SHEET ATTACHMENT

ROGER L. HOLLINS

OFFENSES:

COUNT ONE:

21 U.S.C. §§ 331(K) AND 333(A)(2) – MISBRANDING OF A DRUG WHILE HELD
FOR SALE WITH INTENT TO DEFRAUD OR MISLEAD

PENALTIES:

COUNT ONE:

21 U.S.C. §§ 331(K) AND 333(A)(2) – 3 YEARS IMPRISONMENT, \$250,000 FINE, 1
YEAR SUPERVISED RELEASE, \$100 SPECIAL ASSESSMENT

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

FILED
CO APR 15 PM 12:00
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
SAN FRANCISCO, CALIF.

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JSW

CR 09

0403

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER L. HOLLINS,

Defendant.

Criminal No.

VIOLATIONS: 21 U.S.C. §§ 331(k) and
333(a)(2) - Misbranding Drugs While Held
For Sale With Intent to Defraud or Mislead

SAN FRANCISCO VENUE

INFORMATION

The United States Attorney charges:

INTRODUCTION

At all times material and pertinent to this Information:

The Drugs at Issue

1. Viagra and Cialis were prescription drugs approved by the Food and Drug Administration ("FDA") for the treatment of male erectile dysfunction.

2. Viagra and Cialis could only be sold, dispensed, and administered pursuant to the

INFORMATION

1 valid prescription of a practitioner licensed by state law.

2 **The Food and Drug Administration's Regulation of Drugs**

3 3. The FDA was the federal agency within the United States Department of Health and
4 Human Services charged with enforcing the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§
5 321 *et seq.* ("FDCA"), enacted to protect the health and safety of the American public. The FDA's
6 responsibilities under the FDCA included regulating the distribution of all drugs shipped or received
7 in interstate commerce.

8 4. A "prescription drug" was a drug which, "because of its toxicity or other potentiality
9 for harmful effect, or the method of its use, or the collateral measure necessary for its use, [was] not
10 safe for use except under the supervision of a practitioner licensed by law to administer such drug"
11 or a drug which was "limited by an approved [new drug application] to use under the supervision
12 of a practitioner licensed by law to administer such drug." 21 U.S.C. § 353(b)(1). A prescription
13 drug, by definition, could not bear adequate directions for use by a layperson.

14 5. Viagra and Cialis were limited by their FDA-approvals to prescription use, and
15 otherwise met the definition of a prescription drug because due to their toxicity or other potentiality
16 for harmful effect, the method of their use, and the collateral measures necessary to their use, they
17 could not be safely used except under the supervision of a licensed medical practitioner. Likewise,
18 any drug containing active ingredients similar to those in Viagra and Cialis, and intended for similar
19 uses, would have also been a prescription drug.

20 6. The dispensing of any prescription drug without a valid prescription from a
21 licensed practitioner resulted in the drug being misbranded while held for sale. 21 U.S.C. §
22 353(b)(1).

23 7. The doing of any act that caused a drug to be misbranded while held for sale after
24 shipment in interstate commerce was prohibited under the FDCA. 21 U.S.C. § 331(k).

25 **STATEMENT OF FACTS**

26 8. The defendant, ROGER L. HOLLINS ("HOLLINS"), was a resident of Oakland,
27 California.

28 9. At all times relevant to this Indictment, HOLLINS was not registered as a

1 pharmacist or licensed medical practitioner with the State of California.

2 10. On or about and between August 2007 and January 2008, HOLLINS operated
3 internet websites known as www.viagra-on-wheels.com and www.sexpills-on-wheels.com,
4 which advertised delivery services specializing in local delivery or overnight mail delivery of
5 brand-name prescription erectile dysfunction drugs, particularly Viagra and Cialis. The website
6 advertised local delivery within the San Francisco Bay Area. For non-local customers, the
7 website offered mail delivery by Collect on Delivery (COD) and one to two day priority, express
8 mail orders. The website listed, among other offers, "4X100mg Viagra Tabs \$60", "8X100mg
9 Viagra Tabs \$100" and "3X20mg Cialis Tabs \$60," and showed pictures of purported Viagra and
10 Cialis pills. The website's "About Us" page stated that the drugs sold were "obtained directly
11 from licensed pharmaceutical manufacturers. . . . Our practices are in compliance with FDA
12 regulations. All prescription medications offered through our local referral delivery service are
13 FDA approved."

14 11. The tablets labeled as Viagra that HOLLINS sold to his customers had been
15 imported by HOLLINS from The People's Republic of China or Mexico.

16 12. On or about October 12, 2007, HOLLINS sold four blister packages, four tablets
17 per package, labeled "Pfizer, Viagra, 100mg Sildenafil Tablets to an undercover federal agent
18 located in Greenville, South Carolina. HOLLINS mailed the packages to the undercover agent
19 via the United States Postal Services.

20 13. On or about December 3, 2007, HOLLINS sold five blister packages, four tablets
21 per package, labeled "Pfizer, Viagra, 100mg Sildenafil Tablets and eight blister packages of two
22 tablets per package "Cialis, Tadalafil, 20 MG, Lilly" to an undercover federal agent located in
23 Greenville, South Carolina. HOLLINS mailed the packages to the undercover agent via the
24 United States Postal Services.

25 14. On numerous occasions from on or about and between August 2007 and January
26 2008, HOLLINS sold tablets labeled as Viagra to individuals in the Northern District of
27 California and elsewhere.

28 //

COUNT ONE (21 U.S.C. §§ 331(k) and 333(a)(2) - Misbranding of a Drug While Held For Sale With Intent to Defraud or Mislead)

15. Paragraphs one through fourteen are hereby re-alleged and incorporated by reference as if set forth in full herein.


16. On or about and between August 2007 and January 2008, within the Northern District of California and elsewhere, the defendant,

ROGER L. HOLLINS,

did, with intent to defraud or mislead, dispense prescription drugs without a prescription from a licensed practitioner, the doing of which resulted in those drugs becoming misbranded while held for sale after shipment in interstate commerce pursuant to Title 21, United States Code, Section 353(b)(1), all in violation of Title 21, United States Code, Sections 331(k) and 333(a)(2).

DATED: April 10, 2009

United States Attorney
JOSEPH P. RUSSONIELLO


BRIAN J. STRETCH
Chief, Criminal Division